



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/524,568

02/15/2005

Ulrich Waibel

N0484.70056US00

1140

23628 7590 09/21/2009
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

EXAMINER

CHOY, PAN G

ART UNIT

PAPER NUMBER

3624

MAIL DATE

DELIVERY MODE

09/21/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/524,568	Applicant(s) WAIBEL, ULRICH	
	Examiner PAN CHOY	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-11,13-16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-11, 13-16 and 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This **FINAL** Office Action is in response to communications received on June 4, 2009. Claims 1, 3-11, 13-16 and 18-20 have been amended; Claims 2, 12, and 17 have been cancelled.

Claims 1, 3-11, 13-16 and 18-20 are pending.

Response to Arguments

2. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 3, 9-11, 13, 19 and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The amended claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, has possession of the claimed invention. The added subject matter which is not in the original specification is as follows:

Claims 1 and 11 recite “the person’s familiarity with prior dictations”. The newly added limitation(s) appear to constitute new matter. Applicant did not point out, nor was Examiner able to find, any support for the newly added limitations in the specification as originally filed.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claims 6 and 16 recite “monitoring the selected person during transcription of the recorded dictation to obtain updated efficiency information”. The newly added limitation(s) appear to constitute new matter. Applicant did not point out, nor was Examiner able to find, any support for the newly added limitations in the specification as originally filed.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. § 103(a) with forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 4, 5, 7-11 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Archbold, (U.S. Pat. No.: 7,031,998 B2), and in view of Uchino et al., (U.S. Pub. No.: 20010018698 A1), and in further view of Barton, (U.S. Pub. No.: 2002/0046074 A1).

Regarding Claim 1, Archbold teaches a system for the automatic routing of transcription jobs to persons who will undertake the jobs by transcribing recorded dictations (see col. 1, lines 34-35: the system including automated assignment of jobs to widely-scattered individual Scribes), the system comprising:

means for classifying a transcription job for a recorded dictation to be routed when a job request arrives to provide a transcription job classification (see col. 1, lines 58-62: “receives job packets, and placing it in a designated Directory; and col. 9, lines 54-58: The comparison documents, results and scoring are forwarded to the Coordinator for handling appropriate to the situation for type of work).

means for storing (see Abstract: computer and software system for keeping the databases used to process jobs and statistical records of jobs) personal parameters of persons who may potentially be assigned to perform the transcription job (see col. 4, lines 6-9: information about Scribes);

means for automatically forwarding the transcription job to the selected person (see col. 6, line 67 to col. 20, line 2: *automatically forwards job step data to a selected scribe*).

Archbold does not specifically disclose the transcription job classification being based, at least in part, on an author of the recorded dictation, a form of transmission of the recorded dictation and/or content of the recorded dictation; however, Uchino discloses at least “the titles of documents are classified based on authors, and stored in order from largest to smallest number of messages” (see ¶ 119). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the

Art Unit: 3624

feature as taught by Uchino in the system of Archbold, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Archbold and Uchino do not specifically disclose means for creating a list of suitable persons ranked according to each person's suitability and/or availability to perform the transcription job based, at least in part, on the stored personal parameters including the person's familiarity with prior dictations by the author and/or the person's familiarity with a specialist field associated with the content of the recorded dictation, and based, at least in part, on the transcription job classification, and means for automatically selecting a person based, at least in part, on the person's ranking in the list; however, Barton discloses "provide a list of basic qualifications, and rank the relative importance of particular skill, and the basic qualifications can include, education, years of experience, industry background, current job level" (see ¶ 222). Further, Barton discloses "each record of the employment candidate database can be entered by selecting from a predefined list" (see ¶ 189); and "a candidate database automatically assigns a cross-industry level such as grade level (e.g. A-F), or other identifier to rank a particular candidate's experience" (¶ 192). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the features as taught by Barton in the system of Archbold and in view of Uchino, since the claimed invention is merely a combination of old elements, and in the combination each element merely

Art Unit: 3624

would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding Claim 4, Archbold and Uchion do not specifically disclose the system of claim 1, wherein the list of suitable persons is ranked according to the efficiency information, and wherein the means for automatically selecting the person includes means for selecting a highest ranked person on the list that is available to perform the transcription based, at least in part, on the working information; however, Barton discloses “provide a list of basic qualifications, and rank the relative importance of particular skill, and the basic qualifications can include, education, years of experience, industry background, current job level” (see ¶ 222). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the features as taught by Barton in the system of Archbold and in view of Uchino, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding Claim 5, Archbold teaches the system of claim 1, further comprising: means for recording information concerning the current workloading of the individual persons, and wherein the means for automatically selecting the person from the list is based, at least in part, on the information concerning the current workloading (see ¶ 56: Assigned Scribes at the higher level of work periodically when their work load permits them to do so).

Regarding Claim 7, Archbold teaches the system of claim 1, further comprising multiple workstations with means for processing information made available in electronic form, the multiple workstations useable by at least one of the persons who may potentially be assigned to the transcription job to perform the transcription (see col. line 16: a MOM computer being associated with a plurality of HOME computers; and col. 2, lines 14-40: means for receiving job packet, selecting Scribes, and generating Electronic Worker Messages in the form of E-main and voicemail to specified User for information or action).

Regarding Claim 8, Archbold teaches the system of claim 1, further comprising voice recognition means for automatically recognizing the recorded dictation to recognize a text file from the recorded dictation (see col. 14, line 63 – col. 15, line 2: use a software speaker-independent voice-recognition command system), and wherein transcribing the recorded dictation includes correcting at least one error in the text file (see col. 16, lines 44-50: The processor checks for “grammar” completeness and use in the statements and for complete option paths in the table rules for catch clerical error; and col. 7, lines 60-61: After the correction is made, the transcribed file is uploaded to the Scribe’s Out-Box).

Regarding Claim 9, Archbold does not specifically disclose the system of claim 1, wherein the means for classifying the transcription job comprises a means for classifying the transcription job based, at least in part, on a specialist field of the content of the recorded dictation; however, Archbold discloses classifying the transcription job

Art Unit: 3624

based on a specialist field by “assigned jobs by the system depending on the availability of qualified Scribes” (col. 3, lines 49-50); Scribes work in a particular subject area, for example, an attorney can dictate a memory regarding a personal injury case, and a radiologist can dictate her review of an X-ray (col. 4, lines 4-37). It would have been obvious to one of ordinary skill in the art at the time of the invention to include classifying the transcription job based on a specialist field in the system of Archbold, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding Claim 10, Archbold does not specifically disclose the system of claim 1, wherein the means for classifying the transcription job comprise means for classifying the transcription job based, at least in part, on author of the recorded dictation; however, Uchino discloses the feature of “the documents are classified based on authors, and stored in order from largest to smallest number of messages” (see ¶ 119). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the feature as taught by Uchino in the system of Archbold, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding Claim 11, Archbold teaches at least one computer readable storage medium having instructions stored thereon that (col. 3, lines 27-35: provides a machine readable medium comprising programming instructions), when executable executed by at least one processor, perform a method for automatically routing transcription, jobs of to persons who undertake the jobs by transcribing recorded dictations, the method comprising:

Claim 11 recites similar limitations to Claim 1 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 1.

Regarding Claim 18, Claim 18 recites similar limitations to Claim 8 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 8.

Regarding Claim 19, Claim 19 recites similar limitations to Claim 9 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 9.

Regarding Claim 20, Claim 20 recites similar limitations to Claim 10 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 10.

6. Claims 3, 6, and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Archbold, in view of Uchino and Barton as applied to claim 1 above, and in further view of Frankel, (U.S. Pat. No.: 6151531).

Regarding Claim 3, Archbold, Uchino and Barton do not specifically the system of claim 1, wherein the personal parameters include efficiency information indicative of how efficient a respective person is in performing transcription for jobs in the transcription job classification and working information indicative of whether the respective person is available to perform the transcription; however, Frankel discloses “various other items of information that enable the data processing system to determine factors such as worker efficiency” (col. 3, lines 30-33); and “it is further desirable to know the workload against available labor before work is sent to process” (col. 4, lines 15-17). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the features as taught by Frankel in the system of Archbold, in view of Uchino and Barton, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding Claim 6, Archbold teaches the system of claim 3, further comprising means for monitoring the selected person during transcription of the recorded dictation to obtain updated efficiency information for each job undertaken by the person (see Abstract: The system may include a “SUPERMOM” directs and transfers job data, receives job record updates and maintains a site for on-line internet job tracking; and col. 19, lines 34-39: Job Transaction record allows the record to support many functions, tracking royalties, making a basis for analysis of efficiency).

Art Unit: 3624

Regarding Claim 13, Claim 13 recites similar limitations to Claim 3 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 3.

Regarding Claim 14, Claim 14 recites similar limitations to Claim 4 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 4.

Regarding Claim 15, Claim 15 recites similar limitations to Claim 5 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 5.

Regarding Claim 16, Claim 16 recites similar limitations to Claim 6 and is therefore rejected using the same art and rationale as applied in the rejection of Claim 6.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclose.

- Yuri et al., (U.S. Pat. No.: 6249715) discloses a method and apparatus for optimizing work distribution. A level is set for each task to be performed and a skill level is set for each worker. A time variation factor is set based upon the ranked work difficulty and the skill level of the workers.
- Brodersen et al., (U.S. Pat. No.: 6850895) discloses a method, a product, and a system for assigning resources to tasks in a rule based which are "Best Fit",

"Random Fit" or "Mandatory Fit", with ranking of employees by weighted rankings, flexible scoring, minimum or threshold scores.

- Andino et al., (U.S. Pub. No.: 20030105642) discloses a system for selection of individuals from a pool of candidates filtered by qualification, eligibility, and other standards.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pan Choy whose telephone number is (571)270- 7038. The examiner can normally be reached on Mon-Fri, 10:30AM - 7:00PM EST.

Art Unit: 3624

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bradley Bayat can be reached on (571) 272-6704. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Pan Choy/
Examiner, Art Unit 3624
September 16, 2009

/Scott L Jarrett/
Primary Examiner, Art Unit 3624